

Can we talk about mental health at work?



What do Tyson Fury, Prince Harry, Alistair Campbell and Beyonce have in common? They have all bravely shared their experience of depression and anxiety. The statistics are clear – 1 in 4 people experience a mental health problem of some kind each year in England, but there is still a fear of the stigma and how to express it, especially when you are new to a role or a boss.

We talk of organisations promoting good mental health and a foundation of trust and this is essential in the construction industry.

Construction workers, vets, doctors and lawyers are all professions where there is an accepted correlation between the role and an impact on mental health issues. They have common threads – loneliness, high pressure, demanding and detailed work, tight deadlines and consequently stress.

Employers in this space have long known their legal responsibility for the mental (and physical) health of their employees at work. The risks of a mistake are serious and therefore policies and planning need to be undertaken to assess the risks and respond to them.

The greater awareness of mental health issues generally, fuelled by celebrity admissions, has led many organisations to adopt positive changes to their culture. We see senior individuals in the organisation opening up about their challenges to give examples and establish trust so that employees feel work is a safe space.

There is increasing adoption of mental health days and employees are pushing back to work their working hours, enjoy a life outside of work and to have the right to switch off from devices (which has even been made law in France).



There are excellent initiatives designed to support and encourage staff to be well – mindfulness and yoga at work, mental health first aid training, counselling, Employee Assistance Programmes and access to specialist treatment and rehabilitation (available under medical insurance policies).

Managing stress in the workplace

But just as employers can also contribute positively, they can also have a negative effect.

In a survey conducted by [Champion Health](#) in 2023, 76% of employees reported moderate-to-high levels of stress, an increase of 9% on the previous year. Key reasons for this included workload, lack of control, job security and the conduct of their co-workers.

Managers can proactively manage deadlines and must, by law, ensure their staff take their annual leave and their daily breaks. They need to set realistic expectations and ensure there is sufficient support, adequate tools and ensure workplace disputes are promptly resolved.

Down-sizing exercises are rarely considered for their impact on the remaining staff but it is hard to ignore the impact of the destabilisation, having to cover the work of former employees and fearing that your head might be next. Managers need to be sensitive to that and ensure that there is adequate support and that those who ask for it are not perceived negatively.

In teams where an employee is on longer-term sick leave there needs to be an ability to obtain cover, and ignore hiring freezes, to prevent the other employees struggling under workloads and having to 'go sick' themselves.

Excessive workloads and the fear of being next, can lead to mistakes. So many employees will stoically carry on when they would be better to take a break from work. They may not have slept, have difficulty concentrating or making decisions and can't muster the energy to be the happy team player that is expected, yet they still make the effort to turn up. Many do until they are certified as 'burnt out'.

So what can the employer do?

If an employee is behaving out of character, you need to consider the reason.

You can ask the employee how they are, in private, and refer to the differences you have noticed. It may be that there is a situation, which has nothing to do with work which is causing them concern (e.g. a family bereavement) which the employee is comfortable sharing with their employer.

You should listen without any assumptions about the outcome and say you will consider what you can do to help. If the employee is unwilling to discuss, then let them know they can speak to you and respect their privacy. Either way you should keep up the dialogue as people's situations change.

Illnesses and injuries are often recorded on employee's reasons for absence, their sick notes and return to work interviews. The key here is to be alive to the possibility that an employee has a disability.

Under the Equality Act 2010, a condition which substantially impacts on their daily life and is of a long term nature is likely to be regarded legally as a "disability". This includes physical conditions, like cancer and MS, and mental and emotional conditions such as depression and anxiety disorders and certain symptoms of stress.

Adjustments need to be made where there is a disability. This would mean that you need to consider relevant changes such as reallocating part of the employee's work load (even temporarily), flexing their start and end times, allowing a break from work (paid or unpaid) and considering flexible working.



The obligations don't end there. Recent case law has stressed the need for employers to investigate deeply before making disciplinary decisions.

In one case a teacher showed a horror film to his inappropriately-aged class and was being dismissed. He was known to have a medical condition that rendered him disabled but the school had not even considered the possibility of a link between his disability and his error in judgement. The employee had been exercising more and struggling with sleep due to his condition. It was decided that the mistake in showing the film "arose from" his condition and therefore he could not lawfully be disciplined for it.

The learning point is that employers have to go the extra mile before applying their policies and procedures. The employer and the decision maker are potentially discriminating if they reduce an employee's bonus, select them for redundancy or impose an absence warning because of the employee's attendance record. The employer should disregard absences due to the disability itself and matters "arising from it" and for any medical appointments.

This isn't easy in a smaller business or where the employee does not want to discuss it. An employee is allowed to be tight-lipped (not to lie), but an employer can't make adjustments if they couldn't reasonably have known of the condition. A trusting relationship with their line manager often allows an employee to speak up. Hotlines and buddy systems also work well.

Organisations need to support their team leads and give them the skills to identify and support employees with mental health issues. Familiarising yourself with the organisation's mental health or capability policy is not enough. They need to work with the employee and the HR/People team to ensure the best outcomes.

Creating a win-win situation

You can still provide the employee with feedback and raise concerns about their work. Understanding the employee's condition better and how it might have affected their behaviour avoids mishandling a situation and provoking a grievance, or at worst a claim. Managers should access the help around them. Many employees would also welcome the early intervention of the Occupational Health service to advise on any changes or support they need to get on with their work.

It is increasingly difficult to hire talent in the current climate so enabling employees to perform to their best is an obvious 'win-win'. It is consistent with the values of loyalty and caring to support an employee for the period they need it. It is also a sound financial decision. Year after year, the highest awards made by the Employment Tribunal are to employees who were dismissed or treated poorly because they are disabled.

We are entering an era when mental health is affecting more people than ever before. It is the greatest contributor to absence from work and it is often exacerbated when left unsupported. Michelle Obama urged us all to re-think in saying, "At the root of this dilemma is the way we view mental health. Whether an illness affects the heart, the leg or the brain, it's still an illness and there should be no distinction".

We can all have a positive impact with a smile, a greeting and a listening ear, why wouldn't we?

How we can help

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